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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,114	06/27/2003	Robert Austin Porter	POR1000.02A1	9256

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EXAMINER

CRABTREE, JOSHUA DAVID

ART UNIT PAPER NUMBER

3715

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/609,114	Applicant(s) PORTER, ROBERT AUSTIN	
	Examiner Joshua D. Crabtree	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9, 14-16, and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Grundy, Jr. (US 5,711,673). Grundy, Jr. discloses a "Method for interpreting a plurality of response marks on a scannable surface" (See Title).

Regarding claim 1, Grundy discloses the limitation of a grading label comprising a data field containing data, which includes grade and student identification information (See Fig. 1). Grundy, Jr. also discloses an identification number input area comprising input bubbles and boxes for handwritten indicia (See Fig. 1). Grundy, Jr. also discloses a grade input area comprising input bubbles and boxes for handwritten indicia (See Fig. 1). Regarding the limitation of a means for imaging the data field and transferring data to an electronic grade book, Grundy, Jr. discloses, "The test is graded by a procedure that involves scanning the form to obtain a read level for each response bubble, which indicates how dark the examinee's mark is for that particular response bubble." (Col. 1, lines 42-25) Grundy, Jr. also discloses, "Means for obtaining a read level value for the response bubbles is provided by a scanner operating in connection with the computer or integrated into the computer hardware." (Col. 10, lines 56-58).

Regarding claim 2, Grundy, Jr. discloses a data field including grade information and student identification information, comprising a rectangle (See Fig. 1).

Regarding claim 3, Grundy, Jr. discloses the data field residing on a document (See Fig. 1).

Regarding claim 5, see the rejection to claim 1 above.

Regarding claim 6, Grundy, Jr. discloses a data field comprising a rectangle (See Fig. 1).

Regarding claim 7, Grundy, Jr. discloses the data field residing on a document (See Fig. 1).

Regarding claim 9, Grundy, Jr. discloses a data field comprising a grading label. (See Fig. 1).

Regarding claim 10, Grundy, Jr. discloses input areas for grade and identification information, as addressed in the rejection to claim 1 above.

Regarding claim 11, Grundy, Jr. discloses an identification number input area comprising a first, second and third row of numbered input bubbles (See Fig. 1).

Regarding claim 12, Grundy, Jr. discloses numbered input bubbles comprising non-repeating numbers from zero to nine (See Fig. 1).

Regarding claim 13, Grundy, Jr. discloses an identification number input area comprising one or more boxed regions for handwritten indicia (See Fig. 1).

Regarding claim 14, Grundy, Jr. discloses a grade information input area comprising lettered input bubbles.

Regarding claim 15, the lettered input bubbles of Grundy, Jr. contain score information. Grundy, Jr. discloses, "For example, a scoring value approach involving both weighting and positive and negative credit could be as follows for a question with five response bubbles, 'A' through 'E'" (Col. 12, lines 20-25).

Regarding claim 16, Grundy, Jr. discloses, "response areas ("bubbles") corresponding to answer selections provided for each question." (Col. 1, lines 27-28).

Regarding claim 17, Grundy, Jr. discloses a grade information input with boxes for handwritten indicia (See Fig. 1).

Regarding claim 18, Grundy, Jr. discloses boxed region containing score information (See Fig. 1).

Regarding claim 19, Grundy, Jr. discloses lettered input bubbles containing answer information, as addressed in the rejection to claim 16 above.

Regarding part claim 35, Grundy, Jr. discloses scanning the document comprising a data rectangle, as addressed in the rejection to claim 1 above. Regarding the limitation of finding the data rectangle, the user of the scanning system of Grundy, Jr. would have to find the rectangle in order to insert the form into the grading machine or scanner properly. Regarding the limitation of inputting identification and grade information into an electronic grade book, Grundy, Jr. discloses, "Means for obtaining a read level value for the response bubbles is provided by a scanner operating in connection with the computer or integrated into the computer hardware. The scanned read level values are stored by software." (Col. 10, lines 56-60). Thus the information, including identification and grades, is input and stored electronically.

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Regarding claim 36, Grundy, Jr. discloses, "The test is graded by a procedure that involves scanning the form to obtain a read level for each response bubble, which indicates how dark the examinee's mark is for that particular response bubble." (Col. 1, lines 40-45). Thus a grade is calculated. Electronic storage of the grade is addressed in the rejection to claim 35.

Regarding claim 37, Grundy, Jr. discloses input areas for grade and identification information, as addressed in the rejection to claim 1 above.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 8, 20-28 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grundy, Jr. in view of Knowles, et al. (US 6,810,232). Grundy, Jr. does not disclose a digital camera connected to a microprocessor, with the microprocessor programmed to obtain the image and process data. Knowles et al. teach, "The scanner contains a camera for reading through optically imaging all or portions of a response document. For example, using 'clipping' to read individual responses on a response documents or reading all the responses including all or some of the document background of the response document (full page imaging)." (Col. 5, lines 49-55; see also Figs. 2, 3, 5, 6-1, 6-2). Knowles et al. teach processing the data

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(See Fig. 7). Regarding electronic storage, Knowles et al. teach, "The electronic images and image clips may be stored in a computer or other storage media known to those skilled in the art." (Col. 1, lines 35-37). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Knowles et al. into the invention of Grundy, Jr. in order to allow the test grader to use a digital camera or scanner as opposed to a specialized test form scanning machine.

Regarding claim 8, see the above rejection to claim 4.

Regarding claim 20, see the above rejection to claim 4.

Regarding claim 21, Grundy, Jr. discloses a data field comprising a rectangle (See Fig. 1).

Regarding claim 22, Grundy, Jr. discloses a data field residing on a document, or "Answer Sheet" (See Fig. 1).

Regarding claim 23, Grundy, Jr. discloses a data field including grade and identification information (See Fig. 1).

Regarding claim 24, Grundy, Jr. discloses a grading label (See Fig. 1).

Regarding claim 25, Grundy, Jr. discloses grade and identification input areas as described in the rejection to claim 1 above.

Regarding claim 26, Grundy, Jr. discloses a first, second and third row of input bubbles (See Fig. 1).

Regarding claim 27, Grundy, Jr. discloses numbered input bubbles comprising non-repeating numbers from zero to nine (See Fig. 1).

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Regarding claim 28, Grundy, Jr. discloses an identification number input area comprising one or more boxed regions for handwritten indicia (See Fig. 1).

Regarding claim 29, Grundy, Jr. discloses a grade information input area comprising lettered input bubbles.

Regarding claim 30, Grundy, Jr. discloses lettered input bubbles containing score information, as addressed in the rejection to claim 15 above.

Regarding claim 31, Grundy, Jr. discloses lettered input bubbles containing answer information, as addressed in the rejection to claim 16 above.

Regarding claim 32, Grundy, Jr. discloses a grade information input with boxes for handwritten indicia (See Fig. 1).

Regarding claim 33, Grundy, Jr. discloses boxed region containing score information (See Fig. 1).

Regarding claim 34, Grundy, Jr. discloses lettered input bubbles containing answer information, as addressed in the rejection to claim 16 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 517-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDC

Monica S. Carter
MONICA CARTER
SUPERVISORY PATENT EXAMINER